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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 5TH DAY OF JUNE 1998

BEFORE

THE HON'BLE MR. JUSTICE V. GOPALA GOWDA

WRIT PETITION No.286/1994

BETWEEN:

1. Basavanappa Ningappa Badiger,
age: major, Occ: Agriculture,
R/o. Hanchinal, Tal: Kundgol.

2. Devendrappa Ningappa Badiger,
age: major, Occ: Agril,
R/o. Hanchinal,
Tal: Kundgol.

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..PETITIONERS

(By Sri Mohan Shantanagoudar, Advocate)

AND:

1. State of Karnataka,
represented by Revenue
Secretary, Vidhana Soudha,
Bangalore.

2. Chairman,
Land Tribunal,
Kundagol.

3. Shanifsab Hussainsab
Sultanavar, age: major,
Occ: Labourer,
R/o. Hanchinal, Tal: Kundgol.

4. Hazaratsab, Hussainsab
Sultanavar, age: major,
Occ: Labourer, R/o.
Hanchinal, Tal: Kundagol.

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5. Krishnarao Bhimarao Desai,
Major, R/o.Kundagol,
Dist: Dharwad.

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..RESPONDENTS

(By Miss.Bharathi Nagesh, AGA for R1 & 2)

This Writ Petition is filed under Articles 226 & 227 of the Constitution of India praying to call for the records of the appeal L.R.A. No.708/86 pending before the Dharwad District Land Reforms Appellate Authority etc.,

This Writ Petition is coming on for hearing this day, the Court made the following:-

O R D E R

The petitioner claimed occupancy rights in respect of land bearing R.S.No.172/1 measuring 9 acres 39 guntas and R.S.No.172/1 measuring 7 acres 6 guntas of Devanur Village, on the ground that he has been tenant under the 5th respondent and has been cultivating the land for over 40 years as on the date of filing the writ petition. The grievance of the petitioner is that the Land Tribunal without conducting an enquiry as contemplated under Rule 17, rejected his Form No.7 solely on the ground that his name does not find a place in the R.T.C. record. Further grievance of the petitioner is that if the Tribunal had conducted spot inspection, he could

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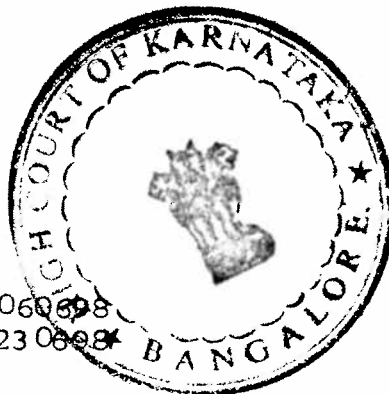
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have shown that he has been in possession of the lands in question as tenant.

2. I have perused the petition averments and the impugned order. I am satisfied that the impugned order passed by the Tribunal is not preceded by an enquiry as required under law. Hence, in my view, this is a fit and proper case for remand to the Tribunal to examine the matter afresh and pass appropriate orders in accordance with law. Hence, I pass the following order:

Writ petition is allowed. Rule is made absolute. Impugned order is hereby quashed. The matter is remitted back to the Tribunal with a direction to give opportunity to both the parties and dispose of the same within six months from the date of receipt of this order. No costs.

Sd/-
JUDGE



Bg/-060698
Bg/-230698